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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

DONOVAN JORDAN ESCALERA,

Defendant and Appellant.

A155372

(Napa County  
Super. Ct. No. 18CR001622)

Defendant Donovan Escalera appeals from a judgment entered after he pleaded no contest to one count of being a felon in possession of a firearm. His counsel asked this court for an independent review of the record to determine if any arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436.) Escalera was informed of his right to file a supplemental brief and did not do so. We conclude that there are no arguable issues and affirm.

In May 2018, after a Napa police officer stopped the car in which Escalera was a passenger, he was found in possession of methamphetamine, heroin, and marijuana, a glass pipe, a loaded revolver, and ammunition.<sup>1</sup> Escalera “initially lied about his identity and said he did not have any identification,” but the officer eventually discovered that Escalera had a domestic violence restraining order against him and “was on formal probation in San Diego County with a prior felony conviction.” He was charged with one count of possession of methamphetamine while armed with a firearm, one count of being

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<sup>1</sup> The facts in this paragraph are drawn from the probation report’s summary of the police report, which Escalera stipulated provided the factual basis of his plea.

a felon in possession of a firearm, one count of being a felon in possession of ammunition, one count of possession for sale of heroin, and one count of possession for sale of methamphetamine, all felonies. He was also charged with one count of giving false information to a police officer and one count of possession of a smoking device, both misdemeanors, and one count of possession of an open package of marijuana in a vehicle, an infraction.<sup>2</sup>

Meanwhile, the following month, the San Diego superior court revoked probation in the other matter and sentenced Escalera to 16 months in county jail. He then pleaded no contest to being a felon in possession of a firearm in this case, and the remaining charges were dismissed. In September 2018, the trial court denied probation and sentenced him to the midterm of two years in prison, to be served concurrently with the sentence imposed in the San Diego case. He filed a timely notice of appeal in which he indicated that the appeal was based on the sentence or other matters not affecting the validity of the plea, and he did not seek a certificate of probable cause.

By entering a plea of no contest, Escalera admitted the sufficiency of the evidence supporting the conviction. (See *People v. Hunter* (2002) 100 Cal.App.4th 37, 41-42.) Moreover, because he did not obtain a certificate of probable cause, he is not entitled to review of any issue involving the validity of his plea, and only sentencing issues are potentially cognizable in this appeal. (See *People v. Espinoza* (2018) 22 Cal.App.5th 794, 798-799.)

We perceive no error in the sentencing proceedings that would entitle Escalera to a better result. Consistent with the terms of the plea agreement, he received a two-year sentence concurrent to the sentence in the San Diego case. In addition, he was

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<sup>2</sup> The charges were brought under Penal Code sections 29800, subdivision (a)(1) (felon in possession of firearm), 30305, subdivision (a) (felon in possession of ammunition), and 148.9, subdivision (a) (providing false information), and Health and Safety Code sections 11370.1, subdivision (a) (possession of methamphetamine while armed), 11351 (possession for sale of heroin), 11378 (possession for sale of methamphetamine), 11364, subdivision (a) (possession of smoking device), and 11362.3, subdivision (a)(4) (possession of open container of marijuana).

competently represented by trial counsel throughout the case, including at sentencing. During the sentencing hearing, counsel argued that Escalera was entitled to more presentence custody credits in this case based on time he served after being sentenced in the San Diego case, but we conclude that the trial court correctly resolved that issue against him. (See *People v. Jacobs* (2013) 220 Cal.App.4th 67, 79-81.)

In short, there are no arguable issues to be raised on appeal. The judgment is therefore affirmed.

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Humes, P.J.

WE CONCUR:

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Margulies, J.

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Sanchez, J.